

#### **IC 21-6.1-4**

##### **Chapter 4. Requirements**

#### **IC 21-6.1-4-1**

##### **Members of fund**

Sec. 1. (a) The members of the fund include:

- (1) legally qualified and regularly employed teachers in the public schools;
- (2) persons employed by a governing body, who were qualified before their election or appointment;
- (3) legally qualified and regularly employed teachers at Ball State University, Indiana State University, University of Southern Indiana, or Vincennes University;
- (4) legally qualified and regularly employed teachers in a state educational institution supported wholly by public money and whose teachers devote their entire time to teaching;
- (5) legally qualified and regularly employed teachers in state benevolent, charitable, or correctional institutions;
- (6) legally qualified and regularly employed teachers in an experimental school in a state university who teach elementary or high school students;
- (7) as determined by the board, certain instructors serving in a university extension division not covered by a state retirement law;
- (8) employees and officers of the department of education and of the fund who were qualified before their election or appointment;
- (9) a person:
  - (A) who is employed as a nurse appointed under IC 20-8.1-7-5 by a school corporation located in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000); and
  - (B) who participated in the fund before December 31, 1991, in the position described in clause (A); and
- (10) persons who are employed by the fund.

(b) Teachers in any state institution who accept the benefits of a state supported retirement benefit system comparable to the fund's benefits may not come under the fund unless permitted by law or the rules of the board.

(c) The members of the fund do not include substitute teachers who have not obtained an associate degree or a baccalaureate degree.  
*As added by Acts 1976, P.L.111, SEC.1. Amended by P.L.20-1984, SEC.194; P.L.218-1985, SEC.16; P.L.43-1991, SEC.7; P.L.201-1993, SEC.1; P.L.22-1998, SEC.10; P.L.246-2001, SEC.12; P.L.170-2002, SEC.126.*

#### **IC 21-6.1-4-2**

##### **Creditable service**

Sec. 2. Creditable service is determined under IC 5-10.2-3-1 and as specified in this chapter. However, to receive one (1) year of

service credit in the fund, a member, under contract or not, must serve:

- (1) at least one hundred twenty (120) days in a year; or
- (2) at least sixty (60) days in each of two (2) years.

Except as otherwise specified, a member may not be granted more than one (1) year of credit for service in a calendar year or fiscal year.

*As added by Acts 1976, P.L.111, SEC.1. Amended by P.L.221-1985, SEC.6.*

### **IC 21-6.1-4-3**

#### **Prior service**

Sec. 3. Prior Service. Each member who served the public schools in a capacity which subsequently was designated by the state as a service for which a license is specified is eligible to receive service credit for the total length of that service. However, each member whose service was recognized as creditable on March 11, 1953, may receive for prior uncredited years served in the same capacity no more service credit than the minimum number of years required for a retirement benefit.

The board shall issue to each person claiming prior service, on presentation of that claim in the form established by the board, a certificate of the amount of prior service allowed by the board. A member may waive his rights to prior service, but that waiver may only be made at time of transfer to the fund.

Each member shall retain all service credit earned under the law before July 1, 1975.

*As added by Acts 1976, P.L.111, SEC.1.*

### **IC 21-6.1-4-4 Repealed**

*(Repealed by Acts 1981, P.L.49, SEC.5.)*

### **IC 21-6.1-4-4.5**

#### **Out-of-state service**

Sec. 4.5. (a) "Out-of-state service" means service in any state in a comparable position which would be creditable service if performed in Indiana. The term includes comparable service performed on a United States military installation, in a federal prison, or at an educational facility operated or supervised by the Bureau of Indian Affairs.

(b) In computing the service credit for each member who began teaching in Indiana before July 1, 1981, and who has served as a public school teacher out of state, the board may include the greater of eight (8) years or one (1) year of out-of-state service for every four (4) years of in-state service; however, this out-of-state service may be included only if rendered before July 1, 1981.

(c) In addition, a member may purchase out-of-state service credit which has not been claimed under subsection (b) subject to the limitations of subsections (d) and (e) if he:

- (1) has at least one (1) year of creditable service in the teachers'

retirement fund;

(2) makes contributions, before he retires, to the teachers' retirement fund:

(A) which are equal to the product of the following:

(i) the member's salary when the member first becomes a member of the teachers' retirement fund, for service credit purchased before January 1, 1994, or the member's salary at the time the member actually makes a contribution for the service credit, for service credit purchased after December 31, 1993;

(ii) normal cost, as determined by the actuary of the teachers' retirement fund (For purposes of this chapter, "normal cost" means the value of the annual amount required to fund the prospective benefits promised an employee for the work he has performed.) for service credit purchased before January 1, 1994, or a percentage rate, as determined by the actuary of the teachers' retirement fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased, for service credit purchased after December 31, 1993; and

(iii) the number of years of out-of-state service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary for the teachers' retirement fund, for the period from the member's initial membership in the teachers' retirement fund to the date payment is made by the member; and

(3) has received verification from the teachers' retirement fund that the out-of-state service is, as of that date, valid.

(d) Out-of-state years which qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(e) After April 1, 1965, at least ten (10) years of in-state service is required before a member may claim any out-of-state service credits.

(f) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting a properly completed application for a refund to the teachers' retirement fund.

(g) The following apply to the purchase of service credit under this section after July 1, 1998:

(1) The board may allow a member to make periodic payments

of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(h) Contributions received after July 1, 1993, for the purchase of service credit under this section must be applied against the unfunded accrued liability of the fund.

*As added by Acts 1981, P.L.49, SEC.3. Amended by P.L.10-1993, SEC.5; P.L.25-1994, SEC.9; P.L.22-1998, SEC.11.*

#### **IC 21-6.1-4-4.6**

##### **Private teaching service**

Sec. 4.6. (a) As used in this section, "private teaching service" means service in Indiana as a teacher in a private school, kindergarten through postsecondary, that would be creditable service if performed in an accredited public school in Indiana.

(b) A member may purchase private teaching service credit subject to the following:

(1) The member must have at least one (1) year of credited service in the fund.

(2) The member must have at least ten (10) years of in-state credited service before the member may claim the service credit.

(3) The member must make contributions, before the member retires, to the fund:

(A) that are equal to the product of the following:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of private teaching service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member; and

(4) The fund must receive verification from the private school that the private teaching service occurred.

(c) Service for years of private teaching that qualify a member for retirement in an out-of-state system, a private retirement system, or

any federal retirement system may not be granted under this section.

(d) A member who:

- (1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or
- (2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

*As added by P.L.40-1998, SEC.1. Amended by P.L.195-1999, SEC.27.*

#### **IC 21-6.1-4-4.7**

##### **Substitute teaching service**

Sec. 4.7. (a) As used in this section, "substitute teaching service" means service in Indiana as a substitute teacher that is not covered under section 1(c) of this chapter, but is served by a person who has other service that is covered under section 1(a) of this chapter.

(b) A member may purchase substitute teaching service if:

- (1) the member has at least one (1) year of creditable service in the fund;
- (2) the member makes contributions, before the member retires, to the fund:

(A) that are equal to the product of the following:

- (i) the member's salary at the time the member actually makes a contribution for the service credit;
- (ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and
- (iii) the number of years of substitute teaching service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial

membership in the fund to the date payment is made by the member; and

(3) the fund receives verification from the school corporation that the substitute teaching service occurred.

(c) Service for years of substitute teaching that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

*As added by P.L.22-1998, SEC.12.*

#### **IC 21-6.1-4-5**

##### **Leave service credit**

Sec. 5. (a) Except as provided in IC 21-6.1-4-6.1, a member may be given credit for leaves of absence for study, professional improvement, and temporary disability so long as the leave credit does not exceed one-seventh of the total years of service claimed for retirement, referred to as the one-seventh rule. A member granted a leave in these instances for exchange teaching and for other educational employment approved individually by the board is considered a teacher and is entitled to the benefits of the fund if for or during the leave the member pays into the fund the member's contributions. A leave for other educational employment is not subject to the one-seventh rule.

(b) In each case of a teacher requesting a leave of absence to work in a federally supported educational project, the board must determine that the project is educational in nature and serves state citizens who might otherwise be served by the public schools or public institutions of higher education. The board shall make this determination for a one (1) year period, which is later subject to

review and reapproval.

(c) Subject to this chapter, leaves of absence specified in IC 20-6.1-6-1, IC 20-6.1-6-2, or IC 20-6.1-6-3 and adoption leave of not more than one (1) year must be credited to retirement.

(d) Notwithstanding any law, this section must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes unless the leave is described in subsection (a), (b), or (c). *As added by Acts 1976, P.L.111, SEC.1. Amended by P.L.221-1985, SEC.7; P.L.342-1989(ss), SEC.34; P.L.1-1991, SEC.144; P.L.214-1995, SEC.1; P.L.5-1997, SEC.9; P.L.195-1999, SEC.28.*

#### **IC 21-6.1-4-6**

##### **Repealed**

*(Repealed by P.L.1-1991, SEC.145.)*

#### **IC 21-6.1-4-6.1**

##### **Military service credit; teachers; college teacher training; employees at state institutions of higher learning**

Sec. 6.1. (a) This subsection applies to members who retire before July 1, 1980. A member who had completed four (4) years of approved college teacher training before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if for or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule specified in section 5 of this chapter.

(b) This subsection applies to members who retire after June 30, 1980. A member who had completed four (4) years of approved college teacher training before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if:

- (1) the member has an honorable discharge; and
- (2) except as provided in subsection (f), the member returns to active teaching service within eighteen (18) months after the completion of active military service.

The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule specified in section 5 of this chapter.

However, not more than six (6) years of military service credit may be granted under this subsection. In order to be eligible for any military service credit under this subsection, a member must have at least ten (10) years of in-state service credit.

(c) This subsection applies to members who retire after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher training before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

- (1) The member has an honorable discharge.
- (2) Except as provided in subsection (f), the member returns to a four (4) year approved college teacher training program within eighteen (18) months after the completion of active military service and subsequently completes that program.
- (3) The member has at least ten (10) years of in-state service credit.

(d) This subsection applies to members who retire after May 1, 1991, and who are employed at state institutions of higher education. A member who had begun but had not completed baccalaureate or post-baccalaureate training before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

- (1) The member received an honorable discharge.
- (2) Except as provided in subsection (f), the member returns to baccalaureate or post-baccalaureate training within eighteen (18) months after completion of active military service and subsequently completes that training.
- (3) The member has at least ten (10) years of in-state service credit.

(e) The maximum amount of service credit that may be granted to a member who meets the conditions of subsection (c), or (d) is six (6) years. However, for purposes of subsection (c), or (d), the time served by the member in active military service for the length of active service in hostilities and necessary demobilization is not subject to the one-seventh rule specified in section 5 of this chapter.

(f) The board shall extend the eighteen (18) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher training program within eighteen (18) months after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(g) If a member retires, and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (f), the board shall recompute the member's benefit. However, the additional service



credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(h) Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

(i) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(j) The following apply to the purchase of service credit under

subsection (i):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

*As added by P.L.1-1991, SEC.146. Amended by P.L.43-1991, SEC.8; P.L.213-1995, SEC.2; P.L.5-1997, SEC.10; P.L.184-2001, SEC.9.*

#### **IC 21-6.1-4-7**

##### **Board's determination of liability from service credit**

Sec. 7. Board's Determination of Liability From Service Credit. The board shall determine the actuarial liability resulting from the years of service of the members in the fund and shall determine the state's share of this liability. The board shall distribute the payment of this liability over a period of years which will be equitable to the state and the fund.

*As added by Acts 1976, P.L.111, SEC.1.*

#### **IC 21-6.1-4-8**

##### **Designation of beneficiary**

Sec. 8. Designation of Beneficiary. The director shall obtain a designation of beneficiary as soon as possible from each member.

*As added by Acts 1976, P.L.111, SEC.1. Amended by P.L.5-1990, SEC.16.*

#### **IC 21-6.1-4-9**

##### **Member contributions**

Sec. 9. (a) Each member shall contribute to the fund three percent (3%) of his compensation as specified in IC 5-10.2-3. However, the member's employer may pay the contribution on behalf of the member.

(b) If a member's employer elects to pay members' contributions for its employees, it must initiate the payments as part of salary and fringe benefit adjustments provided to these employees.

*As added by Acts 1976, P.L.111, SEC.1. Amended by P.L.221-1985, SEC.8; P.L.35-1985, SEC.29.*

#### **IC 21-6.1-4-9.5**

##### **Rollover contributions; trustee to trustee transfers; liability for income tax consequences of transfers**

Sec. 9.5. (a) The fund may accept cash rollover contributions from a member who is making payments for additional service credits under this chapter if the following conditions are met:

- (1) The rollover contribution must represent:
  - (A) all or any portion of the member's interest in a retirement plan of a former employer which is qualified under Section 401(a) of the Internal Revenue Code and which permits the interest to be transferred to the fund as a qualifying rollover contribution under the Internal Revenue Code;
  - (B) all or a portion of the member's interest from an individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code;
  - (C) all or a portion of the member's interest in:
    - (i) a qualified plan described in Section 403(a) of the Internal Revenue Code; or
    - (ii) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or
  - (D) all or a portion of the member's interest in an eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (2) The amount of the rollover contributions may not exceed the amount of payment required to purchase the service credits under this chapter.
- (3) The rollover contributions may contain only tax-deferred contributions and earnings on the contributions, and may not include any post-tax contributions.
- (4) The member must be otherwise eligible to purchase the service credit under this chapter.

(b) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from:

- (1) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or
- (2) an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(c) The fund, the board, and their respective members, officers, and employees do not have any responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the fund under this section. The board may require, as a condition to the fund's acceptance of a rollover contribution:

- (1) satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the Internal Revenue Code; and
- (2) reasonable releases or indemnifications from the member against any and all liabilities that may be connected with the transfer.

(d) Cash transferred to the fund as a rollover contribution shall be deposited in the retirement allowance account in the pre-1996 account or the 1996 account, whichever is appropriate.

(e) A member who terminates employment before satisfying the

eligibility requirements necessary for a pension or disability benefit may withdraw the member's rollover contribution, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under IC 5-10.2-3 to be eligible for a refund of the member's rollover amount.

(f) Except as provided in this section, the fund shall not accept any other rollover contributions from a member.

(g) The board shall administer this section in accordance with the rollover provisions of the Internal Revenue Code and any applicable regulations.

*As added by P.L. 5-1997, SEC.11. Amended by P.L. 61-2002, SEC.12.*

#### **IC 21-6.1-4-10**

##### **Repealed**

*(Repealed by P.L. 221-1985, SEC.15.)*

#### **IC 21-6.1-4-11**

##### **Withdrawal of contributions**

Sec. 11. Each member who suspends membership is covered by the withdrawal provisions of IC 5-10.2-3.

*As added by Acts 1976, P.L. 111, SEC.1. Amended by P.L. 221-1985, SEC.9.*

#### **IC 21-6.1-4-12**

##### **Repealed**

*(Repealed by P.L. 221-1985, SEC.15.)*

#### **IC 21-6.1-4-13**

##### **Accrual of creditable service; assessment of employer share amount for other educational employment**

Sec. 13. (a) After December 31, 1994, creditable service does not accrue under this chapter, IC 5-10.2-3-1, IC 20-6.1-6-1, IC 20-6.1-6-2, or any other law concerning the fund for leave for other educational employment unless the creditable service is directly related to a governmental unit under Section 414(d) of the Internal Revenue Code (as defined in IC 5-10.2-1-3.5).

(b) After June 30, 1995, for members receiving credit for leave for other educational employment under section 5 of this chapter or subsection (a), the board shall assess an actuarially determined employer share amount against the appropriate entity to be paid to the state general fund.

*As added by P.L. 214-1995, SEC.2.*